

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
DEPUTY DIRECTOR - LAND

DEAN NAKANO  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

April 27, 2007

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii 96813

Land Board Members:

**SUBJECT: REQUEST FOR APPROVAL TO ENTER INTO A REBURIAL  
AGREEMENT WITH EW KAHALA BEACHFRONT LLC FOR THE  
HUMAN SKELETAL REMAINS OF TWO INDIVIDUALS INTERRED AT  
4577 KAHALA AVENUE, HONOLULU, HAWAII, 96816**

Submitted for your consideration is a request to enter into a reburial agreement with EW Kahala Beachfront LLC to implement the conditions set forth in the Burial Site Component of a Data Recovery Plan submitted by T.S. Dye & Colleagues and accepted by the State Historic Preservation Division for two sets of human skeletal remains inadvertently discovered at 4577 Kahala Avenue.

Section 6E-43, and 6E.43.6, Hawaii Revised Statutes, requires the State to regulate the proper treatment of human skeletal remains over fifty years old, at any other site than a known, maintained, actively used cemetery. In order to provide perpetual protection for the newly established reburial site for the skeletal remains of these two individuals, its location will be recorded in the bureau of conveyances together with the attached reburial agreement. This reburial agreement establishes a four foot permanent buffer zone, access rights for lineal and cultural descendants, and states that the burial will not be willfully disturbed by the landowner, its successors and assigns.

The Office of the Attorney General has conducted a preliminary review of the draft reburial agreement and all suggested amendments were incorporated into the attached draft.

## **RECOMMENDATION**

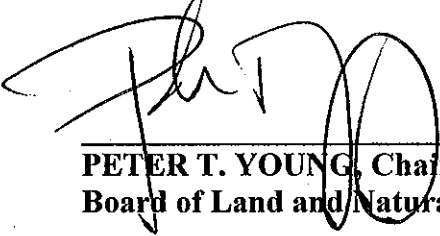
That the Board authorize the Chairperson to execute the attached reburial agreement with EW Kalahala Beachfront LLC, subject to final review and approval by the Attorney General's Office.

Respectfully submitted,

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MELANIE CHINEN, Administrator  
Historic Preservation Division

## **APPROVED FOR SUBMITTAL:**

A handwritten signature in black ink, appearing to read 'Peter T. Young', is written over a horizontal line.

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**PETER T. YOUNG, Chairperson**  
**Board of Land and Natural Resources**



WHEREAS, the parties desire to enter into this Agreement to rebury the human skeletal remains of 2 individuals.

NOW THEREFORE, in consideration of the above and the terms and conditions contained herein, the parties agree as follows:

1. The Landowner agrees to allow the skeletal remains of 2 ancestral Native Hawaiians to be reburied on the Landowner's property located at 4577 Kahala Avenue, Honolulu, HI 96816 and designated State Site No. 50-80-14-6762.

2. The Landowner, upon recommendation from the Department of Land and Natural Resources and the Oahu Island Burial Council, agrees to establish a permanent 4 foot buffer zone completely surrounding the unmarked burial sites.

3. The Landowner, upon recommendation from the Department of Land and Natural Resources and the Oahu Island Burial Council, agrees to landscape the area surrounding the unmarked burial sites.

4. The Landowner and the Department of Land and Natural Resources, upon recommendation from the Oahu Island Burial Council, shall determine whether the unmarked burial sites shall be physically marked. Where it is determined that the burial sites shall be marked, the parties shall come to agreement as to the manner by which to do so.

5. The Landowner agrees to treat the exact location of burial sites as confidential information as provided for by section 6E-43.5, Hawai'i Revised Statutes. The Landowner agrees to identify the location of the burial sites on a map and provide such information to the Department of Land and Natural Resources, Division of Historic Preservation.

6. The Landowner agrees to provide any recognized descendants wishing to visit the burial sites with a right of access. Such right of access shall be subject to the rules and policies of the Landowner.

7. The Landowner, on behalf of itself and its successors and assigns, covenant and agree not to willfully disturb in any manner, or allow the disturbance of in any manner, the repose of the human skeletal remains buried at its property at 4577 Kahala Avenue, Honolulu, HI 96816, and designated State Site No. 50-80-14-6762.

8. In the event the Landowner learns that the human skeletal remains, or any part thereof, are unearthed by natural causes or otherwise, the Landowner agrees to immediately notify the Department of Land and Natural Resources. The Landowner agrees not to handle the human skeletal remains in any manner. The Department of Land and Natural Resources, upon recommendation of the Oahu Island Burial Council, shall take proper action to secure the remains in place.

IN WITNESS WHEREOF, the STATE OF HAWAI'I, by its Board of Land and Natural Resources, has caused the Seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused this Agreement to be executed as of the day, month, and year first above written.

STATE OF HAWAI'I

By \_\_\_\_\_  
Chairperson, Board of Land and Natural Resources

By \_\_\_\_\_  
Member, Board of Land and Natural Resources

LANDOWNER

By \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

Dated: \_\_\_\_\_

STATE OF HAWAI'I

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) SS.

COUNTY OF

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On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to me known to be the person described in and who executed the foregoing instrument and acknowledged that \_\_\_\_\_ executed the same as \_\_\_\_\_ free act and deed.

\_\_\_\_\_  
Notary Public, State of Hawai'i

My commission expires: \_\_\_\_\_